

PATENT

ATTORNEY DOCKET NO.: N1280-00025
[TSMC2002-1189]**REMARKS**

Claims 1-26 are pending in the present application. The Examiner requires restriction between the following groups of claims: Group I, Claims 1-13 and 24-26, drawn to a method of "reducing metal diffusion in a semiconductor device" and method of "reducing copper diffusion in a semiconductor device," respectively, classified in Class 438, Subclass 687; and Group II, Claims 14-23, drawn to a semiconductor device, classified in Class 257, Subclass 1+.

Applicant provisionally elect Group I, Claims 1-13 and 24-26. This election is made with traverse.

MPEP §806.05(f), cited by the Examiner, provides that product and process invention are distinct if "a product as claimed can be made by another and materially different process." In support of the restriction requirement, the Examiner concludes that the product as claimed can be made by another and materially different process, "for instance, instead of generating an opening as specified by claim 1 the layers could be selectively deposited so that the opening is already generated."

First, Applicants submit that selectively depositing the layers of Claim 1 to form an opening therein could be "generating an opening" in the layers as claimed in Claim 1, particularly since Claim 1 does not expressly recite a particular generating technique, such as "etching" recited in dependent Claim 7.

Second, in addition to or in the alternative, it is respectfully submitted that selectively depositing the layers so that the opening is already generated (as hypothesized by the Examiner) is not a "materially different process" as required by MPEP § 806.05(f) than "generating an opening" as claimed. As argued above, "selectively depositing" could arguably be "generating an opening." Further, even if distinct process steps, it is submitted that they are not **materially different** so as to impose any additional burden on the Examiner in his search.

For the reasons set forth above, it is respectfully requested that the Examiner reconsider and withdrawal the restriction requirement.

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The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment which may be associated with this communication to our deposit account 04-1679.

Respectfully submitted,

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